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Message to the Senate Transmitting the Additional Protocol to the Romania-United States Investment Treaty

December 9, 2003

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Additional Protocol between the Government of the United States of America and the Government of Romania Concerning the Reciprocal Encouragement and Protection of Investment of May 28, 1992, signed at Brussels on September 22, 2003. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Additional Protocol.

My Administration expects to forward to the Senate shortly analogous Additional Protocols for Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic. Each of these Additional Protocols is the result of an understanding the United States reached with the European Commission and six countries that will join the European Union (EU) on May 1, 2004 (the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic), as well as with Bulgaria and Romania, which are expected to join the EU in 2007.

The understanding is designed to preserve U.S. bilateral investment treaties (BITs) with each of these countries after their accession to the EU by establishing a framework acceptable to the European Commission for avoiding or remedying present and possible future incompatibilities between their BIT obligations and their future obligations of EU membership. It expresses the U.S. intent to amend the U.S. BITs, including the BIT with Romania, in order to eliminate incompatibilities between certain BIT obligations and EU law. It also establishes a framework for addressing any future incompatibilities that may arise as European Union authority in the area of investment expands in the future, and endorses the principle of protecting existing U.S. investments from any future EU measures that may restrict foreign investment in the EU.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. This Additional Protocol preserves the U.S. BIT with Romania, with which the United States has an expanding relationship, and the protections it affords U.S. investors even after Romania joins the EU. Without it, the European Commission would likely require Romania to terminate its U.S. BIT upon accession because of existing and possible future incompatibilities between our current BIT and EU law.

I recommend that the Senate consider this Additional Protocol as soon as possible, and give its advice and consent to ratification at an early date.

GEORGE W. BUSH

The White House,
December 9, 2003.